

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CHRISTOPHER GOODVINE,
Plaintiff,

v.

Case No. 13-CV-1057

DR. GEORGE MONESE
Defendant,

DECISION AND ORDER

I granted defendant's motion for summary judgment on March 25, 2015; judgment was entered the same day. Plaintiff has now filed a notice of appeal, and a motion for leave to appeal in forma pauperis, and a motion for relief after judgment.

A plaintiff who was allowed to proceed in forma pauperis in the district court does not ordinarily need to provide reasons for an appeal. Celske v. Edwards, 164 F.3d 396, 398 (7th Cir. 1999). In considering plaintiff's request to proceed in forma pauperis before the district court, it was determined that plaintiff met the indigence requirement of 28 U.S.C. § 1915(a)(1) and that his claims were neither malicious nor frivolous. As a result, I do not find any indication that plaintiff's appeal is not taken in good faith.

Under the Prison Litigation Reform Act (PLRA), a prisoner must pay the applicable filing fees in full for a civil action. 28 U.S.C. § 1915(b). If a prisoner does not have the money to pay the \$505.00 filing fee in advance for an appeal, he can request leave to proceed in forma pauperis. To proceed with an action or appeal in forma pauperis, the prisoner must complete a petition and affidavit to proceed in forma pauperis and return it to the court along with a certified copy of the prisoner's trust account statement showing transactions for the prior six months. 28 U.S.C. § 1915(a)(2). The court must assess an

initial filing fee of twenty percent of the average monthly deposits to the plaintiff's prison account or average monthly balance in the plaintiff's prison account for the six-month period immediately preceding the filing of the notice of appeal, whichever is greater. 28 U.S.C. § 1915(b)(1).

After the initial fee is paid, the prisoner must make monthly payments of twenty percent of the preceding month's income until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2). The agency which has custody of the prisoner will collect the money and send payments to the court. No payment is required in months when the prisoner's preceding month's income is \$10.00 or less. Id.

Along with his request to proceed in forma pauperis, plaintiff filed a certified copy of his prison trust account statement for the six-month period immediately preceding the filing of his notice of appeal. A review of this information reveals that plaintiff is not required to pay an initial partial filing fee. 28 U.S.C. § 1915(b)(4). However, he is still obligated to pay the full filing fee pursuant to the statutory formula set forth in 28 U.S.C. § 1915(b)(2). Newlin v. Helman, 123 F.3d 429, 434 (7th Cir. 1997), rev'd on other grounds by, Walker v. O'Brien, 216 F.3d 626 (7th Cir. 2000) and Lee v. Clinton, 209 F.3d 1025 (7th Cir. 2000).

Plaintiff has also filed a motion for relief asking for either copies of the pleadings and discovery from the court without cost or for the institution to furnish plaintiff with copies. According to plaintiff, his legal materials were maliciously destroyed by a correctional officer at Columbia Correctional Institution and he needs those documents for appeal. Plaintiff has not specifically identified which documents he is requesting. Therefore, I am left to assume that he wants all documents filed in this case, which would be hundreds of

pages. Second, as he acknowledges in his motion, the Clerk of Court generally provides copies of documents to parties at a cost of \$.10 per page. There is no provision in the in forma pauperis statute for me to replicate plaintiff's case file at no cost. While plaintiff's allegations may be the basis for a separate claim for denial of access to the courts against the officer who destroyed the documents, there is nothing I can do in this case.

THEREFORE, IT IS ORDERED that plaintiff's motion for relief after judgment (Docket #66) is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's motion for leave to appeal in forma pauperis (Docket #70) is **GRANTED**.

IT IS FURTHER ORDERED that the Secretary of the Wisconsin Department of Corrections or his designee shall collect from plaintiff's prison trust account the balance of the filing fee (\$455.00) by collecting monthly payments from plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to plaintiff's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10.00 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action.

IT IS FURTHER ORDERED that copies of this order be sent to the warden of the institution where plaintiff is confined, and to PLRA Attorney, United States Court of Appeals for the Seventh Circuit, 219 S. Dearborn Street, Rm. 2722, Chicago, Illinois 60604.

Dated at Milwaukee, Wisconsin, this 14th day of May, 2015.

s/ Lynn Adelman

LYNN ADELMAN
District Judge